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(22)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (C) No. 3622 of 2007

Petitioner : Narayan Shrivas

Versus

Respondents : State of Chhattisgarh & others

Post for order on 2nd July, 2007.

Sd/-
Satish K. Agnihotri
Judge

(33)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. (C) No. 3622 of 2007

Petitioner		Narayan Shrivas, son of Rama Shrivas, aged about 60 years, R/o Village- Chindpur, Block and Tahsil Katghora, District Korba (C.G.)
	Versus	
Respondents	1.	State of Chhattisgarh, Through : the Secretary, Department of Co-operative Society, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
	2.	Registrar, Co-operative Societies, Chhattisgahr, Telibandha, By-pass Road, Raipur (C.G.)
	3.	The Deputy Registrar, Co-operative Societies, Korba District Korba (C.G.)
	4.	The Election Officer, Adiwasi Seva Sahkari Samiti Maryadit-Bhilai Bazar, District Korba (C.G.)

SB: Hon'ble Mr. Justice **Satish K. Agnihotri**

Shri Bhaskar Pyasi, Advocate for the petitioner.

Shri Yashwant Singh Thakur, Govt. Advocate for the respondents No. 1 to 3.

ORDER

(Passed on this 2nd day of July, 2007)

1. The petitioner is challenging the legality and validity of the order dated 31.5.2007 (Annexure P/5) whereby and whereunder the proposed election to be held on 28.5.2007 in Aadivasi Seva Sahkari Samiti Maryadit, Lamps, Bhilai Bazar, District Korba (for short 'the Samiti'), was cancelled.

2. The indisputable facts, relevant for the purpose of this petition, are that the respondent No.2 declared the election programme (Annexure P/1) for holding the election of the Samiti. The date for receipt of the nomination form for the election in the Samiti in question was 17.5.2007. The petitioner along with 12 other villagers/members filed their nomination forms before the Samiti

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Incharge as emphasized by the Election Officer/Respondent No.4. On scrutiny out of 13, 2 nomination forms were rejected and 11 persons remained in the election fray. The said election was to be held on 28.5.2007 by the election officer/respondent No.1.

3. In the meeting dated 28.5.2007 law and order problem was created, the villagers did not allow the election officer to conduct the election on the ground that the panel of Shiv Charan Agarwal be declared as elected. Due to unusual situation created by the villagers, wherein the election officer was threatened to declare all the members of the panel of Shiv Charan Agarwal as elected, else he would not be allowed to leave the village. In such circumstances the election could not be held and the election officer had to leave the venue of election.

4. The election officer immediately cancelled the election programme vide order/letter dated 31.5.2007 (Annexure P/5) informing the Deputy/Assistant Registrar (Audit), Cooperative Societies, Korba. Being aggrieved the petitioner has filed this petition.

5. Learned counsel appearing for the petitioner submits that on rejection of 2 nomination forms, the remaining 11 persons ought to have been declared as elected unopposed, as total 11 members were to be elected in the election. Secondly, the election officer has no jurisdiction to cancel the election.

6. Having heard learned counsel appearing for the petitioner as well as learned counsel appearing for the State/respondents, it is evident that in view of the law and order problem created by the villagers, it was not possible for the election officer to hold the election and declare remaining persons as elected unopposed.

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That could not have been done without examining the complaints in regard to the acceptance of the nomination forms. It was stated that some nomination forms were pending with one Vijay Rajak that could not have been considered before holding the election. The election officer was not in a position to consider even nomination forms properly, as prescribed in Rule 41 of the Madhya Pradesh Cooperative Societies Rules, 1962.

7. In the facts and circumstances of the case, it was not possible for the election officer to conduct the election properly on the date notified by earlier election schedule.

8. The new election programme (Annexure P/7) has already been notified, according to which the last date of filing all the nomination papers was 28.6.2007 and the election is scheduled to be held on 9.7.2007.

9. It is trite law that once election programme has been notified, the Court should refrain itself from interfering with the election programme except in exceptional circumstances. This is not a case where exceptional circumstances exist. The election notified, earlier was cancelled due to the unavoidable circumstances and within a period of less than two months, the new election programme has been notified. Thus, looking from all angles it is not warranted to interfere with the election programme (Annexure P/7), at this stage.

10. In view of the foregoing, the petition does not worth any merit, which deserves to be and is dismissed, accordingly.

Thakur

Sd/-
Satish K. Agnihotri
Judge